

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION

Andris Wright, # 297235,	)	C/A No.: 3:08-cv-963-GRA-JRM
	)	
Petitioner,	)	<b>ORDER</b>
	)	(Written Opinion)
v.	)	
	)	
Bernard McKie, Warden,	)	
	)	
Respondent.	)	
	)	

This matter is before the Court for review of the magistrate's Report and Recommendation made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02(B)(2)(c), D.S.C. and filed April 18, 2008. Petitioner brings this suit pursuant to 28 U.S.C. § 2254. The magistrate recommends that the case be dismissed without prejudice and without issuance and service of process because petitioner failed to exhaust state remedies.

Petitioner brings this motion *pro se*. This Court is required to construe *pro se* pleadings liberally. Such pleadings are held to a less stringent standard than those drafted by attorneys. *Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir.), *cert. denied*, 439 U.S. 970 (1978). This Court is charged with liberally construing a pleading filed by a *pro se* litigant to allow for the development of a potentially meritorious claim. *Cruz v. Beto*, 405 U.S. 319 (1972).

The magistrate makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Matthews v. Weber*, 423 U.S. 261, 270-71 (1976). The Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and the Court may accept, reject or modify, in whole or in part, the recommendation of the magistrate, or recommit the matter to him with instructions. 28 U.S.C. § 636(b)(1). In the absence of objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198 (4th. Cir. 1983). Petitioner filed objections to the Report and Recommendation on May 1, 2008.

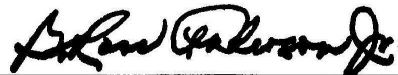
Petitioner makes several objections to the magistrate's Report and Recommendation. However, the Court finds that only one of Petitioner's objections triggers de novo review. Petitioner's main objection to the magistrate's Report and Recommendation deals with the magistrate's dismissal of his case on the grounds that he has failed to exhaust his state court remedies. Petitioner argues that this Court should review his application for relief "because at this point its' my only way to get Justice for violations of my Constitutional rights." (Objections 1.) However, as the magistrate noted, Petitioner informed the Court that he has filed a petition for writ of certiorari of his postconviction case with the South Carolina Supreme Court. As noted by the magistrate, Petitioner indicated that the matter is still pending. Therefore, until

the South Carolina Supreme Court renders a decision on the matter, Petitioner has failed to exhaust his state remedies. As such, the Court finds that Petitioner's objection is without merit.

After a review of the magistrate's Report and Recommendation and Petitioner's objections thereto, this Court finds the report is based upon the proper law. Accordingly, the Report and Recommendation is accepted and adopted in its entirety.

IT IS THEREFORE ORDERED that this petition be DISMISSED without prejudice and without issuance and service of process.

**IT IS SO ORDERED.**



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G. ROSS ANDERSON, JR.  
UNITED STATES DISTRICT JUDGE

Anderson, South Carolina

May 13, 2008

**NOTICE OF RIGHT TO APPEAL**

Plaintiff is hereby notified that he has the right to appeal this Order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure. Failure to meet this deadline, as modified within Rule 4, will waive the right to appeal.